



**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 906**

**[Doc. No. AMS-SC-16-0021; SC16-906-1 FIR]**

**Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Relaxation of Container and Pack Requirements**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule implementing a recommendation from the Texas Valley Citrus Committee (Committee) that relaxed the container and pack requirements prescribed under the marketing order for oranges and grapefruit grown in the Lower Rio Grande Valley in Texas (order). The Committee locally administers the order and is comprised of producers and handlers of Texas citrus operating within the area of production. The interim rule added the word "approximate" to the size specifications of three regulated containers to make the language consistent with other containers specified under the order. This change provides uniformity in the descriptions of containers and helps prevent potential compliance violations stemming from slight variations in container dimensions.

**DATES:** Effective October 3, 2016.

**FOR FURTHER INFORMATION CONTACT:** Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 291-8614, or E-mail: Doris.Jamieson@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may obtain information on complying with this and other marketing order and agreement regulations by viewing a guide at the following website: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses>; or by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Richard.Lower@ams.usda.gov.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 906, as amended (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of

1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

The handling of oranges and grapefruit grown in the Lower Rio Valley in Texas is regulated by 7 CFR part 906. Prior to this change, the descriptions of three of the authorized containers specified exact dimensions whereas the remainder of the containers provide approximate dimensions. The Committee noted that with the containers with specific dimensions, container manufacturers could inadvertently generate containers that have a small variance in size from the specific requirements of the order, causing a handler to be out of compliance with order requirements. Therefore, this rule continues in effect the rule that added the word "approximate" in the description of the container sizes of the three containers with specific dimensions to make the language consistent with the descriptions of the other containers.

In an interim rule published in the **Federal Register** on June 15, 2016, and effective on June 16, 2016, (81 FR 38881, Doc. No. AMS-SC-16-0021, SC16-906-1 IR), § 906.340

paragraphs (a)(1)(i) through (iii) were amended by adding the word "approximate" to the size specifications of three regulated containers.

### **Final Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 170 producers of oranges and grapefruit in the production area and 13 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined

as those whose annual receipts are less than \$7,500,000 (13 CFR 121.201).

According to Committee data and information from the National Agricultural Statistics Service, the average grower price for Texas citrus during the 2014-15 season was around \$9.53 per box, and total shipments were near 7.8 million boxes. Using the average grower price and shipment information, and assuming a normal distribution of production among all producers, the majority of producers would have annual receipts of less than \$750,000. In addition, based on Committee information, the majority of handlers have annual receipts of less than \$7,500,000 and could be considered small businesses under SBA's definition. Thus, the majority of Texas citrus producers and handlers may be classified as small entities.

This rule continues in effect the action that changed § 906.340 of the container, pack, and container marking requirements prescribed under the order. This rule adds the word "approximate" to the size specifications of three regulated containers to make the language consistent with other containers specified under the order. This change provides uniformity in the descriptions of containers and helps prevent potential compliance violations stemming from

slight variations in container dimensions. Authority for the change is provided in § 906.40.

This action is not expected to impose any additional costs on the industry. However, it is anticipated that this action will have a beneficial impact. Adding the word "approximate" to the dimension requirements for the containers with specific dimensions could prevent possible order violations or potential extra costs associated with replacing incorrect cartons should container manufacturers inadvertently generate containers that do not meet order requirements. The benefits of this rule are expected to be equally available to all fresh orange and grapefruit growers and handlers, regardless of their size.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0189, Generic Fruit Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large Texas

citrus handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Texas citrus industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the November 17, 2015, meeting was a public meeting, and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before August 15, 2016. One comment was received in support of the change. The commenter stated that it made sense to add the word "approximate" to the rest of the containers to make them consistent with the other containers under the order. The commenter also made other comments which are not relevant to this rulemaking action. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

<https://www.regulations.gov/document?D=AMS-SC-16-0021-0001>

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (81 FR 38881, June 15, 2016) will tend to effectuate the declared policy of the Act.

#### **List of Subjects in 7 CFR Part 906**

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements.

#### **PART 906 - [AMENDED]**

Accordingly, the interim rule that amended 7 CFR part 906 and that was published at 81 FR 38881 on June 15, 2016, is adopted as a final rule, without change.

Dated: September 23, 2016

Elanor Starmer  
Administrator  
Agricultural Marketing Service

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